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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,627	08/25/2003	Andrew H. Borom		2543

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EXAMINER

HO, ALLEN C

ART UNIT	PAPER NUMBER
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2882

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/647,627	<b>Applicant(s)</b> BOROM, ANDREW H.	
	<b>Examiner</b> Allen C. Ho	<b>Art Unit</b> 2882	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 April 2005.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-9 and 11-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,9 and 17 is/are rejected.
- 7) ☒ Claim(s) 3-8 and 11-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claim 9 is objected to because of the following informalities: Claim 9 recites "a surgical table as recited in claim 9". Appropriate correction is required.
2. Claim 15 is objected to because of the following informalities: Claim 15 recites the limitation "said fourth slider". There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 9, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Tamura (U. S. Patent No. 6,095,685).

With regard to claim 1, Tamura disclosed a surgical table configured for attachment to an x-ray machine, wherein the x-ray machine has an image intensifier (6) which receives x-rays in a direction approximately transverse to a mounting surface (11), comprising: (a) a main plate (12) having an upper surface and a lower surface; and (b) an attachment means (3, 9, 10, 11), affixed to the main plate and configured to attach the main plate to the image intensifier in an orientation wherein the lower surface is proximate to and parallel to the mounting surface; and (c) wherein

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the attachment means are adjustable to allow the attachment of the surgical table to a variety of the x-ray machines.

With regard to claim 9, Tamura disclosed a surgical table configured for attachment to an x-ray machine, wherein the x-ray machine has an emitter (8) which transmits x-rays in a direction approximately transverse to a mounting surface (11), comprising: (a) a main plate (12), having an upper surface and a lower surface; (b) attachment means (3, 9, 10, 11), affixed to the main plate and configured to attach the main plate to the emitter in an orientation wherein the lower surface is proximate to and parallel to the mounting surface; and (c) wherein the attachment means are adjustable to allow the attachment of the surgical table to a variety of the x-ray machines.

With regard to claim 17, Tamura disclosed a surgical table configured for attachment to an x-ray machine comprising: (a) a main plate (12), having an upper surface and a lower surface; (b) an attachment means (3, 9, 10, 11), affixed to the main plate and configured to attach the main plate to the image intensifier in an orientation wherein the lower surface is proximate to and parallel to the mounting surface; and (c) wherein the attachment means attaches the main plate to the lip of the image intensifier (since the attachment means attaches the main plate to the entire image intensifier).

5. Claims 1, 9, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Muthmann (U. S. Patent No. 5,086,448).

With regard to claim 1, Muthmann disclosed a surgical table configured for attachment to an x-ray machine, wherein the x-ray machine has an image intensifier (9) which receives x-rays in a direction approximately transverse to a mounting surface (the face of the image intensifier),

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comprising: (a) a main plate (4) having an upper surface and a lower surface; (b) an attachment means, affixed to the main plate and configured to attach the main plate to the image intensifier in an orientation wherein the lower surface is proximate to and parallel to the mounting surface; and (c) wherein the attachment means are adjustable to allow the attachment of the surgical table to a variety of the x-ray machines.

With regard to claim 9, Muthmann disclosed a surgical table configured for attachment to an x-ray machine, wherein the x-ray machine has an emitter (8) which transmits x-rays in a direction approximately transverse to a mounting surface (the face of the image intensifier), comprising: (a) a main plate (4), having an upper surface and a lower surface; (b) attachment means (5, 6), affixed to the main plate and configured to attach the main plate to the emitter in an orientation wherein the lower surface is proximate to and parallel to the mounting surface; and (c) wherein the attachment means are adjustable to allow the attachment of the surgical table to a variety of the x-ray machines.

With regard to claim 17, Muthmann disclosed a surgical table configured for attachment to an x-ray machine, comprising: (a) a main plate (4), having an upper surface and a lower surface; (b) attachment means, affixed to the main plate and configured to attach the main plate to the image intensifier; and (c) wherein the attachment means attaches the main plate to the lip of the image intensifier.

*Allowable Subject Matter*

6. Claims 3-8 and 11-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Response to Arguments*

7. Applicant's arguments filed 13 April 2005 have been fully considered but they are not persuasive.

The applicant argues that the references failed to disclose an attachment means that is adjustable to allow the attachment of the surgical table to a variety of x-ray machines. The examiner respectfully disagrees. While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure, rather than function. MPEP § 2114. It is unclear what structure, if any, is set forth by this functional language. Furthermore, the applicant fails to define the difference between different x-ray machines that requires the attachment means to be adjustable to allow the attachment of the surgical table to the x-ray machines. This difference could be due to any number of elements in an x-ray machine, such as x-ray tube, or circuits, which do not affect the way the attachment means disclosed by Tamura and Muthmann attaches the surgical table to the x-ray machine.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- (1) Iinuma (U. S. Patent No. 6,669,365 B2) disclosed an apparatus for x-ray fluoroscopy and radiography.
- (2) Schwicker *et al.* (U. S. Patent No. 6,382,832 B1) disclosed an x-ray examination apparatus.
- (3) Csikos *et al.* (U. S. Patent No. 6,220,752 B1) disclosed an x-ray examination apparatus.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen C. Ho whose telephone number is (571) 272-2491. The examiner can normally be reached on Monday - Friday from 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward J. Glick can be reached at (571) 272-2490. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Allen C. Ho  
Primary Examiner  
Art Unit 2882

22 April 2005